IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

Crl.MC.No. 323 of 2007()

CC.638/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA

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PETITIONER: ACCUSE

SANJAY RAJ, S/O.RAJAN,
THAIVALAPPIL HOUSE, MAPPRNAM, MADAYIKONAM.

BY ADV. SRI.SAIJO HASSAN

RESPONDENTS: DEFACTO COMPLAINANT & STATE

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1. ANOOP, S/O.ABDUL KHADER,
CHEENIKKAPPURAM HOUSE, PULLUR.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.323 of 2007

Dated this the 13th day of February, 2007

ORDER

The petitioner faces indictment in a prosecution, inter alia, under Section 420 I.P.C. All offences are compoundable, it is submitted. The complainant has compounded the offence. The petitioner has come to this Court with a prayer to invoke the powers under Section 482 Cr.P.C to quash the proceedings. Cognizance was taken on the basis of a final report submitted by the police.

2. The offence being compoundable, It is for the petitioner to appear before the learned Magistrate and pray for composition. I find no reason to invoke the powers under Section 482 Cr.P.C when the offence is admittedly compoundable.

3. Counsel submits that the complainant is residing abroad and that it is not possible for the complainant to appear before the learned Magistrate. Certainly an application through power of attorney holder can be presented before the learned Magistrate praying for composition. The learned Magistrate must certainly consider such application on merits and in accordance with law. At any rate, I find no reason to invoke the powers under Section 482 Cr.P.C.

4. This Crl.M.C is, in these circumstances, dismissed. But with the observation that the learned Magistrate must consider the application for composition to be filed by the petitioner and the complainant and pass appropriate orders thereon expeditiously.

(R.BASANT, JUDGE)

rtr/-